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BILLINGS DIV.

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IN THE UNITED STATES DISTRICT COURT

PATRICK E. DUFFY, CLERK

FOR THE DISTRICT OF MONTANA

DEPUTY CLERK

BILLINGS DIVISION

DUSTIN A. HAGBERG,

Plaintiff,

VS.

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

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CV-09-01-BLG-RFC-CSO

**) ORDER ADOPTING FINDINGS
) AND RECOMMENDATIONS OF
) U.S. MAGISTRATE JUDGE**

On September 10, 2009, United States Magistrate Judge Carolyn Ostby entered Findings and Recommendation (*Doc. 24*) on the parties' cross motions for summary judgment. Magistrate Judge Ostby recommends the Commissioner's motion (*Doc. 20*) be granted and that Hagberg's motion (*Doc. 17*) be denied.

Upon service of a magistrate judge's findings and recommendation, a party has 10 days to file written objections. 28 U.S.C. § 636(b)(1). In this matter, Plaintiff filed objections on September 18, 2009 (*Doc. 25*), to which Defendant responded on September 28, 2009 (*Doc. 26*). Plaintiffs' objections require this Court to make a *de novo* determination of those portions of the Findings and

Recommendations to which objection is made. 28 U.S.C. § 636(b)(1).

Plaintiff's objections must be overruled because they merely repeat the arguments already rejected by Judge Ostby. Objections to a magistrate's Findings and Recommendations are not a vehicle for the losing party to relitigate its case. *Camardo v. General Motors Hourly-Rate Employees Pension Plan*, 806 F. Supp. 380, 382 (W.D.N.Y. 1992). Congress created magistrate judges to provide district judges "additional assistance in dealing with a caseload that was increasing far more rapidly than the number of judgeships." *Thomas v. Arn*, 474 U.S. 140, 153 (1985) (internal quotations omitted). There is no benefit if the district courts is required to review the entire matter *de novo* because the objecting party merely repeats the arguments rejected by the magistrate. In such situations, this Court follows other courts that have overruled the objections without analysis. *See Sullivan v. Schiro*, 2006 WL 1516005, *1 (D. Ariz. 2006)(collecting cases).


This conclusion, however, does not relieve the Court of its duty to review *de novo* Magistrate Judge Ostby's conclusions of law. *Barilla v. Ervin*, 886 F.2d 1514, 1518 (9th Cir. 1989) (the failure to file objections only relieves the trial court of its burden to give *de novo* review to factual findings; conclusions of law must still be reviewed *de novo*) overruled on other grounds by *Simpson v. Lear Astronics Corp.*, 77 F.3d 1170, 1174 (9th Cir. 1996). Here, Magistrate Judge

Ostby correctly concluded that the Administrative Law Judge's conclusions are supported by the record and are not based on legal error. *See Thomas v. Barnhart*, 278 F.3d 947, 954 (9th Cir. 2002).

After a de novo review, the Court concludes Magistrate Judge Ostby's Findings and Recommendations (*Doc. 24*) are well-grounded in law and fact and are adopted in their entirety. The Commissioner's motion for summary judgment (*Doc. 20*) is **GRANTED**, while Hagberg's motion (*Doc. 17*) is **DENIED**.

IT IS SO ORDERED.

DATED this 14 day of October 2009.



RICHARD F. CEBULL
UNITED STATES DISTRICT JUDGE